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GENESIS OF THE COURTS OF TAZEVELL COUNTY, ILLINOIS.

By WILLIAM REID CURRAN.

When the silent stars were the only measure of time in the valley of the Illinois, it was written:

“The Lord, thy God, bringeth thee into a good land, a land of brooks of water, of fountains and springs, flowing forth in valleys and hills; a land of wheat and barley and vines and fig trees and pomegranates, a land of olive trees and honey, a land wherein thou shalt eat bread without scarceness. Thou shalt not lack anything in it—a land where stones are iron, and out of those hills thou mayest dig copper.

“Beware lest when thou hast eaten and art full, thou forget the Lord, thy God.

“Thine eyes shall behold a land that reacheth afar, a place of broad rivers and streams. Yea, thy children shall possess the nations and make the desolate spots to be inhabited.

“So they helped everyone his neighbor, and everyone said to his brother, ‘Be of good courage.’ So the carpenter encouraged the goldsmith and he that smote with the hammer him that smote the anvil.

“Bear ye one another’s burdens and so fulfill the law of Christ.”

“The pastures are clothed with flocks; the valleys are covered over with corn; they shout for joy, they also sing.”

These words are a prophetic vision of the land of the Illini. They aptly describe any county in the State, and none more fittingly than our own beloved Tazewell. They reveal not only the natural and acquired beauties of the land, but the high ideals which the people of the land are seeking to attain. They are a picture of that land and the people will attain in the end to the perfection of a true democracy, where

all men shall have equal right of each and willingly aid him to get it.

This is historic ground. Within the present boundaries of our county, Robert Cavalier de LaSalle and his men commenced the erection of Fort Creve Cœur on January 3, 1680. It has been 234 years since that event. Plymouth Colony had only been planted sixty years when the lilies of France were unfurled to the breeze of the Illinois valley. The cavalier had been at Jamestown but sixty-six years.

One hundred and thirty-six years ago, at the present site of Wesley City, was erected the old French trading post. It was in operation as long as the Indians remained in this part of the State. It was still standing as late as 1836.

In 1823, after a lapse of 143 years since the building of Fort Creve Cœur, Nathan Dillon broke ground for the first white man's cabin on Dillon Creek and became Tazewell's first actual settler in the sense of coming to make a home for his family and open up a farm. This was five years after Illinois became a State in 1818. The only white men living in the boundaries of this county when Illinois Territory assumed the dignity of a state were the French Indian traders on Wesley Hill. The entire population of the territory then barely exceeded 40,000, most of whom lived south of a line drawn from Alton to Shawneetown, and it was currently reported that a part of this number was obtained by counting the passengers on "prairie schooners" going west to Iowa. In its beginning, this county was the product of the energies of the cavalier, rather than of the Puritan; civilization moved along the water courses and timber localities; and mostly in the northwest drift of immigrants from Virginia, through Ohio, Indiana and Kentucky. They brought with them their forms of local government. The county was the unit, and not the township, as among the Puritans. The county was organized by a special act of the General Assembly at Vandalia, January 31, 1827. It was named in honor of John Tazewell, United States Senator, from the state of Virginia. There was a slight error in the boundary of the county in this act, which was corrected in an amendment approved January 22, 1829. The territory in the new county embraced the general watershed of the Mackinaw River.

It was known as the Mackinaw River Country. This stream had been named by the Indians, and in their tongue means "turtle"; so it is literally the Turtle River Country. The boundaries of the new county far exceeded its present scope. The east line was at a point nine miles east of Bloomington and included two-thirds of McLean County; the north line extended from a point six miles south of Streator west to the center of the Illinois River; the west line extended down the river a distance of more than sixty miles to a point near Bath, in Mason County, and the south line extended east to a point eight miles east of Clinton. It included not only its present territory, but also all of Woodford, part of LaSalle, half of Marshall, part of Livingston, DeWitt, Logan and Mason. It comprised seventy-five congressional townships, all complete, except the fractional ones along the river. In addition, all that tract of country lying north and east of Tazewell and within the county limits of Fayette was attached to and authorized to vote in Tazewell. This territory extended east to the State line and north to the Chicago River.

The act creating the county named Thomas A. Neal, William Lee D. Ewing and Job Fletcher commissioners, to "fix the permanent seat of government." It directed them to meet at the house of William Orendorff on the third Monday of March, 1827. This house was in a fringe of timber, just south of the present village of Hopedale. They were required to report to the county commissioner's court. This was a court authorized by the Constitution of 1818 of three members. It had jurisdiction of all county business. It served the same general purpose that the present board of supervisors does and existed in this State until the adoption of the Constitution of 1848, when township organization was made optional and the board of supervisors was organized in this county.

The first county commissioners' court that had jurisdiction in this territory sat in Peoria, March 8, 1825. It was then attached to Peoria for county purposes. The commissioners were Nathan Dillon of Dillon settlement, William Holland of Holland Grove, now Washington, and Joseph Smith, from west of the river. That the east side of the river had two commissioners is significant. It is the first time

in history that Peoria was in the minority on the bench. April 10, 1827, occurred the first session of the county commissioners' court at the cabin of William Orendorff. This was the first court that ever sat in this county. The commissioners were James Latta, Benjamin Briggs and George Hittle. The court appointed Mordecai Mobley, clerk, who made the record of its proceeding. At that session it was ordered that the court be held "at the house of Ephraim Stout, in Stout's Grove, until a public building could be erected." Stout's Grove was on the headwaters of the Mackinaw, north of Blooming Grove, now Bloomington. The fact that the county was being organized and the county commissioners' court was in session within four years after Nathan Dillon built his cabin shows with what rapidity the country was settling up.

There was a special term of the county commissioners' court held at the residence of Ephraim Stout April 25, 1827, to receive the report of the commissioners, locating the seat of the county government. The commissioners reported that they had selected the northwest quarter of section 17, town. 24 north, range 2 west of the third P. M. as the seat of justice for said county; the court house to be situated at or near the spot where the commissioners drove down a stake, standing nine paces in a northeast direction from a large white oak, blazed on the northeast side. This stake stood in the wilderness. There was no town or house in that neighborhood, and nothing to cause either, except the will of this commission, selecting this spot as the seat of government for this territory. The point selected was on the bluff on the south bank of the Mackinaw River. It was called Mackinaw, because the act creating the county provided that the seat of government be so named for the probable reason that it was to become the capital of the Mackinaw River Country. The act also provided for laying out a town and selling lots to raise money to build a court house and jail. This was done. The village of Mackinaw marks the place, and lot one, block one, was the spot where the first court house was built. At a regular term of the county commissioners' court on June 26, 1827, at the house of Ephraim Stout, a contract was let to build the new court house at auction for \$125.00 to Amasa Stout, the

lowest bidder. The house was of hewn logs, 24 feet long and 18 feet wide and a story and a half high; 9 feet to the story; the roof was joint shingles, doors of black walnut; two 12-light windows in the first story and one 4-light window in the end of the house in the second story. The lower floor of puncheons, well hewn and joined; the floor overhead, one and a quarter sawed plank. The house to be well chinked, daubed and corners sawed down.

Under the Constitution of 1818 circuit courts were provided with general common law and chancery jurisdiction. The administration of estates and probate of wills was a special jurisdiction, termed "judge of probate."

The first term of circuit court held in this jurisdiction was at the court house in Mackinaw on May 12, 1828. Hon. Samuel D. Lockwood, judge presiding. The first jury trial was the case of John Benson against Joseph B. Horbort. It was an action in case; verdict and judgment for plaintiff for ten dollars damages. The amount seems to us insignificant. Today it is insignificant. Then it was the value of eight acres of raw land. The same land is worth more than \$1,600 now. The same day the grand jury returned two indictments, each for assault and battery, and court adjourned to court in course. This is the brief record of the initial influence of the common law of England as it reappeared in the western wilderness. It is the exponent of the Anglo-Saxon love for justice.

Mordecai Mobley, was the first judge of probate. He held a term of probate court at the residence of Ephraim Stout, April 25, 1827, and granted letters of administration to Jacob Spawr, on the estate of John Trimmer. These courts continued to exercise their respective jurisdictions until the adoption of the Constitution of 1848, which abolished the county commissioners' court, continued the circuit court and changed the judge of probate to the county court, making it a court of record with a clerk and a seal. The first session of the county court was held in this county at the court house in Tremont, December 18, 1849; Benjamin F. James, judge presiding; R. W. Ireland, clerk; R. T. Gill, sheriff. Under modifications and various extensions of jurisdiction the board of supervisors and the courts named, have

continued to manage county business and administer justice in this jurisdiction, with some modification under the Constitution of 1870, until the present day.

From this record we are justified in the opinion that the seat of government being determined, all that remained was for the county and its capital to grow up with the country.

This is not what happened. The early settler was full of life and ambition. Every cross-road village felt the desire to be a metropolis. If all their hopes had been realized there would not have been vacant land enough left to yield grain. By the only means of travel, then known, distance between points was a prime factor. The ox team, the lumber wagon, the horse and buggy, the saddle horse and shank's mare made the location of the seat of government in the center of the county, a matter of justice. There were no manufacturers and but limited commerce. In the opinion of our forefathers the only sure thing to make a town grow was to get the county seat. If the town was not near the center of the county, the only remedy was to change the geographical center. By ambition the angels fell, and by ambition the pioneers of this county lost a great opportunity. With the wide dominion she had in the beginning, she might have been a dominant factor in the State. By union of purpose among her people she would have been first in area, second in population and probably would have contained the second city of the State. The conditions developed an inevitable contest. The chief weapon of the war was special legislation.

On December 25, 1830, an act of the General Assembly was passed, creating the County of McLean and appointing a commission to locate the seat of government. This act cut off 100,000 acres of land from Tazewell and put Mackinaw within four miles of the McLean County line. This was not a welcome Christmas gift. The act could not have been passed had the men in that assembly representing this county been true to their own. The act was the result of internal dissensions and external desire for more counties and more county governments. Twenty-three days after, on February 16, 1831, the same General Assembly passed another act to permanently locate the seat of justice in Tazewell County. The court house was at Mackinaw. The rec-

ords were there. It had been located by an act of the Assembly and had never been changed. This new act appointed a commission to meet in the town of Pekin in April, 1831, to locate the county seat. The fact that the county had one seat of government did not seem to disturb the legislative mind. The act also provided that until the county seat was located the several courts should be held in Pekin until suitable buildings were furnished at the new county seat. These two acts were twin children of the same minds. The commissioners appointed by the latter act, never met. The courts were removed to Pekin. Judge Stephen T. Logan held the September term of court, 1831, in the town of Pekin, and the courts continued in Pekin until the May term, 1836, while the county waited for the relocation of the county seat. The sessions of court were held in the town of Pekin, in the old Methodist Church building, that stood north of where the Farmers' National Bank now stands. The history of this building is symbolic. It was a church, became a court house, then a saloon and gambling house, and finally was destroyed by fire. This legislation was designed to benefit Pekin; its effect was to damage the city. The county discord started by this legislation resulted in a contest that lasted twenty years and again proved the truth, that pure selfishness always ultimately defeats its own ends.

On February 12, 1835, the former commissioners having failed to act, for reasons that never have been publicly recorded; another act went into force, appointing John Calhoun, James Garland, George E. Walter, James Evans and Isaac C. Pugh, commissioners to locate the permanent seat of justice for the county. They were directed to meet at the house of Alexander McNaughten, between the first day of April and the first day of October, 1835. We presume this specific direction was given to prevent the recurrence of the accident of their not meeting at all. They met September 17, 1835. John H. Harris of the Tremont Colony, on behalf of that town offered twenty acres of land and \$2,000 to assist in building the new court house. This offer was accepted by the commissioners and the seat of justice "again permanently located" in the town of Tremont, where the first substantial court house was built at a cost of \$14,000. The first

term of the circuit court held at Tremont was in September, 1836, Judge Stephen T. Logan presiding. This did not put an end to the strife, but only seemed to add fuel to the fire. The spirit of dissension was still active. Criminations and recriminations were rife and threats of vengeance were frequent.

Further conspiracies were formed. On January 20, 1841, another act went into force, cutting off the County of Mason. In the same session, on February 27, 1841, a similar act, cutting off the County of Woodford, was passed, reducing the parent county to nineteen townships, and poor old Tazewell was suffering the pangs of internal dissension and decimation.

On February 26, 1841, an act went into force, directing the county commissioners' court to rent some unoccupied portions of the court house at Tremont, and placing the care and custody of the court house in the county commissioners' court, "any law to the contrary notwithstanding." The draftsmen of that act had some motive that is not revealed in the act itself. It meant trouble for somebody. On February 17, 1843, an act of the General Assembly went into force directing that the townships of Washington and the larger portion of Fond Du Lac be cut off from Tazewell and attached to Woodford, and that the seat of justice be removed from Tremont to Pekin. This act provided that it should not be effective unless endorsed by the majority vote of both counties. The scheme turned out to be like a certain oblate spheroid and was "flattened at the poles." This transaction reveals the desperate straits to which the county had been reduced in the struggle and makes plain the bane of special legislation, which was possible under our first Constitution.

The final contest on this question came in 1849, when an act of the General Assembly went into force on February 2 of that year, changing the seat of justice from the town of Tremont to the town of Pekin, on condition that the act be approved by a majority of the vote of the county, and that the town of Pekin and vicinity erect a good and sufficient court house for the use of said county on court square in said town, without cost to the county, within two years from

the time this act shall take effect; the county seat not to be removed until the court house is erected and approved by the circuit judge. The act provided that Thompson I. S. Flint, David Mark, William Maus, Thomas N. Gill and James Haines be commissioners to receive subscriptions and build the court house, if the county seat was changed under the act. The election was held on the first Saturday of April, 1849. The law was sustained by a majority vote of the county; the court house erected on court square in the town of Pekin, by the citizens of that town and vicinity, without cost to the county. The work was approved by David Davis, circuit judge, in the latter part of July, 1850, and as provided by the act, the town of Pekin became the permanent seat of justice.

The last term of circuit court held at Tremont was in April, 1850. The officers and records were removed to the new court house at Pekin, August 26, 1850. Judge David Davis held the first session of circuit court there in September following. The last case tried in it was C. A. Fluegel, for the use of J. Carver vs. Margaret Dorence et al.; an action in replevin heard before Judge T. N. Green and a jury, which returned its verdict for plaintiff, May 19, 1914.

This court house has stood as a monument to justice in the county sixty-four years. It has served well its day and generation and now gives way to the progress of the twentieth century. It has remained, while the men who battled for and against its location, like the leaves of their native trees, have fallen from the bough and been gathered to their fathers. The animosities of the conflict have been buried with them and now only remain as tradition to the men of the present day.

This is one of the last monuments of the pioneer days to fall beneath the march of time. To us, who have spent the major part of our professional life within its courts, its passing brings a note of sadness. There are pictures in our minds connected with it that will only fade with conscious memory. The only thing that can make the change tolerable is the necessary requirement to keep pace with the improvements of the age; the necessity of keeping step with progress.

"It is weary watching wave by wave,
 And yet the tide heaves onward;
 We climb like corals, grave by grave,
 And pave a pathway sunward;
 We are driven back for every fray
 A newer strength to borrow;
 But where the vanguard camps today,
 The rear shall rest tomorrow."

This county was a large factor in the old eighth judicial circuit of Illinois. David Davis, one of its circuit judges, became an honored chief justice of the Supreme Court of the United States, a tribunal long since recognized as the greatest in the world. Stephen A. Douglas, a member of its bar, was not only a great lawyer and a great judge, but also the leader and ideal of a great political party, and was chosen by his partisans to represent them in the greatest mental combat of modern times. Abraham Lincoln, another member of its bar, was not only a great lawyer, but a founder and leader of a great political party; the choice of his faction to meet the great senator in debate; the choice of the Nation as President, and in that office became the saviour of the Union and the emancipator of slaves. These men were familiar figures on the bench and at the bar in the old court house at Tremont and in the old court house at Pekin. They are reminders to us of a great host of other men, many of whom were of equal ability, if not of so wide a fame, who in the time that is past, constituted the great bar of this circuit and county, who have added lustre and honor to the courts in which they served and honored the Nation in which they were citizens. They are a reminder of those pioneers, who braved the wilderness, alive with beasts of prey and savage tribes, met miasma and unknown diseases lurking on every hand; who endured poverty, privations, hardships, and willingly fought the battles of the wilderness to make homes for themselves and their children, where they might enjoy liberty and the right to serve God, according to the dictates of their conscience. They are our forbearers. We are reaping the golden harvest that they planted, and we may well be glad if we can preserve and pass on to our posterity the

heritage that they have left us. If we can perform our duty in our day and generation as well as they performed theirs, we will indeed be happy. They had faults; we write them upon the sands, that they may be forgotten; they had virtues; we write them upon the tablets of our memories, that we may emulate them.